

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

Asheville Division

FILED  
ASHEVILLE, N.C.

SEP 26 2018

U.S. DISTRICT COURT  
W. DIST. OF N.C.

Case No.

1:18cv279-MOC-DLH  
(to be filled in by the Clerk's Office)

RON AND CLAUDIA METCALF,  
LEGAL GUARDIANS FOR

Little D.J.M. et al

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Graham and Swain Counties, N.C., et. al.

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Jury Trial: (check one) ☒ Yes ☐ No

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

**I. The Parties to This Complaint****A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Ron and Claudia Metcalf, <b>LEGAL GUARDIANS FOR D.J.M.</b>		
Address	169 Atoah St.		
	Robbinsville	N.C.	28771
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Graham		
Telephone Number	407-401-2445		
E-Mail Address	cherubcalf@earthlink.net		

**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

## Defendant No. 1

Name	Graham County (Attorney)		
Job or Title <i>(if known)</i>	harbor for D.S.S.		
Address			
	Robbinsville	N.C.	28771
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County			
Telephone Number			
E-Mail Address <i>(if known)</i>			
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

## Defendant No. 2

Name	Swain County (Attorney)		
Job or Title <i>(if known)</i>	harbor for D.S.S.		
Address			
	Bryson City	N.C.	28743
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County			
Telephone Number			
E-Mail Address <i>(if known)</i>			
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

Defendant No. 3

**SEE ATTACHED FOR COMPLETE ADDRESSES, ETC.**

Name

Kim Carpenter

Job or Title (if known)

Attorney

Address

Sylva

N.C.

28779

City

State

Zip Code

County

Telephone Number

E-Mail Address (if known)

☒ Individual capacity☒ Official capacity

Defendant No. 4

Name

Susan Call

Job or Title (if known)

Address

Bryson City

N.C.

28713

City

State

Zip Code

County

Telephone Number

E-Mail Address (if known)

☒ Individual capacity☒ Official capacity**II. Basis for Jurisdiction**

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐ Federal officials (a *Bivens* claim)

☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

5<sup>th</sup> and 14th Amendment due process rights, equal protection under the U.S. Constitution

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

see separate pages

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### III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

see separate pages

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- B. What date and approximate time did the events giving rise to your claim(s) occur?

see separate pages

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- C. What are the facts underlying your claim(s)? (*For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)

see separate pages

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#### **IV. Injuries**

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

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#### **V. Relief**

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

see separate page

## VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

### A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.


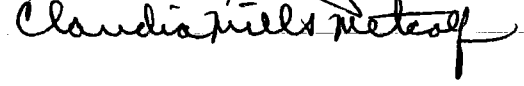
Date of signing: 9/25/18

Signature of Plaintiff

Ron David Metcalf

Printed Name of Plaintiff

Claudia Mills Metcalf

### B. For Attorneys

Date of signing: \_\_\_\_\_

Signature of Attorney \_\_\_\_\_

Printed Name of Attorney \_\_\_\_\_

Bar Number \_\_\_\_\_

Name of Law Firm \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_  
*City*

\_\_\_\_\_  
*State*

\_\_\_\_\_  
*Zip Code*

Telephone Number \_\_\_\_\_

E-mail Address \_\_\_\_\_

In re D.J. M., et al, vs. Graham and Swain Counties, N.C., et al No. \_\_\_\_\_

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS (non-prisoner)

Plaintiffs Ron and Claudia Metcalf, parents, legal guardians for D.J.M.

169 Atoah St. Robbinsville N.C. 28771 407-401-2445 (cell phone only)

cherubcalf@earthlink.net

Defendant 1: Graham County, N.C. (Attn. Attorney)

12 North Main St. Robbinsville, N.C. 28771

Defendant 2: Swain County, N.C. (Attn. Attorney)

P.O..Box 2321 (Courthouse Bldg., 101 Mitchell St.) Bryson City N.C. 28713

Defendant 3: Attorney Kim Carpenter

Carpenter, Guy, and Arnold 559 West Main St. Sylva, N.C. 28779 828-339-1010

Defendant 4: Susan Call (present add. unknown, last known address)

c/o John and Kathy Dugan, Cooper Creek Rd., Bryson City (Ela) N.C.

also co-owner of Darnell Farms 2300 Governors Island Rd., Bryson City N.C. 28713

828-488-2376 (farm); 828-342-6528 (cell)

Note on *in forma pauperis* application: our income has not changed since we have twice been declared indigent by the N.C. Supreme Court this past year. State income includes Social Security as income; Federal income does not, for tax purposes. We barely qualified for food stamps, just under the threshold, even with Social Security declared.

REVIEW OF RECORD IS A CONSTITUTIONAL RIGHT WHEN IT CAN BE SHOWN THAT WHAT HAS BEEN FILED IS NOT FRIVOLOUS, NOR THAT A REVIEW IS INTENDED TO DELAY DUE PROCESS PROCEEDINGS. THE STATE OF NORTH CAROLINA APPEALS PROCESS HAS BEEN EXHAUSTED, TWICE, SINCE MARCH 2014, WITHOUT A SINGLE JUDGE, STATE OR FEDERAL, AFFORDING US OUR 5<sup>TH</sup> AND 14<sup>TH</sup> AMENDMENT DUE PROCESS AND EQUAL PROTECTION RIGHTS. BECAUSE I AM *PRO SE* POOR, AND HAVE A DISABLED SON, DOES NOT GIVE THE STATE THE LUXURY TO DENY OUR RIGHT OF REVIEW, EVEN THOUGH THEY HAVE DENIED A LAWYER MULTIPLE TIMES, USING BUDGET CUTS AS THE MAIN EXCUSE. DETERMINING THAT THERE ARE NO CONSTITUTIONAL ISSUES WITHOUT ACTUALLY REVIEWING TO SEE IF THERE ARE IS A MOCKERY OF JUSTICE. IN FACT, I HAVE RECORDED OVER THIRTY STATE AND FEDERAL CONSTITUTIONAL VIOLATIONS, BUT THE STATE HAS MAINTAINED, OVER AND OVER, THAT, BECAUSE A CHIEF DISTRICT JUDGE DECLARED THE ENTIRE RECORD "NULL AND VOID" ONE MONTH BEFORE HIS FORCED RETIREMENT, THAT THE RECORD DOES NOT NOW, NOR HAS EVER, EXISTED. THE NORTH CAROLINA COURT OF APPEALS AND SUPREME COURT HAVE DODGED THE ISSUE TWICE, USING A COUNTY ATTORNEY'S EIGHT-PAGE REPLY TO BRIEF AND ONE-PAGE MOTION TO DISMISS AS SOLE CRITERIA FOR THEIR OPINIONS; THIS ALL BEING PART OF THE RECORD THAT DOES NOT EXIST; AS ALSO A RESIDENT SUPERIOR COURT JUDGE ACTIVELY ASSISTING THAT SAME COUNTY ATTORNEY FILE AN ALTERNATE APPEAL, IN DIRECT VIOLATION OF STATE STATUTES. THIS PRECEDENT HAS ALLOWED JUDGES AND LAWYERS IN DISTRICTS TO "DO WHATEVER THEY WANT", AS JUDGE MONICA LESLIE INFAMOUSLY TOLD ME FROM THE BENCH IN MARCH 2013. SINCE THEN, BECAUSE OF INCREASING FINANCE CUTS AND DOCKET OVERLOADS, THINGS HAVE ONLY GOTTEN WORSE. ALL THIS CAN BE PROVEN; AN ATTORNEY FINDING WHAT NEEDS TO BE PRESENTED WOULD BENEFIT EVERYONE.



That a candidate for U.S. Supreme Court Justice with an immaculate record is being judged by half the country as “Guilty” without a Hearing NOW shows both ignorance and deliberate disregard for the Rule of Law for due process. If this is being done at the highest jurisprudence level in the U.S., what chance does a poor disabled adult, charged with slanderous allegations that never have to be proven, have in state courts of law that regularly ignore due process?

A precedent has been set in North Carolina that any Motion to Dismiss by a lawyer is allowed by the Court against any *pro se* appeal, in over 90% of cases by statistics. This is convenient to reduce overloads, but it also tells district courts that they don’t have to follow procedure at all; that the state will automatically back whatever they do, in almost all civil court matters (criminal matters are more closely scrutinized). The ONLY recourse against the State or its subunits, in this case rural counties whose population is less than large cities, is a civil lawsuit (“it’s damages, or nothing”) against the “harboring municipality”, as districts and departments of government cannot be sued directly, even when conspiracy can be proven. An occasional error of law is hard enough to prove; deliberate, continual errors of law is conspiracy against the people of the state that sometimes can be proven, except that no law firm in the state will go against the state, and most law firms outside the state won’t look at a case unless it gives them national publicity. Thus the law can be disregarded by impunity by default; the rich get richer, the poor poorer without any real constitutional rights. In contacting over a hundred law firms, with only a handful bothering to reply, this one stuck out the most: “You’re a fool for thinking your U.S. Supreme Court docketing number means anything whatsoever, because you’re not a lawyer.” I understood what he was saying statistically; but look at the face of it, and you see the cynicism of officers of the court against the established rule of law in this land, including the U.S. Constitution.

Pertinent cases, part of the public record, personally relating to the above (THESE ARE OUR CASES).

414A17-2 : N.C. Supreme Court: Motion to Reconsider Dismissed, May 9, 2018.

71P18: N.C. Supreme Court: Petition for a Writ of Certiorari Dismissed, Motion to Proceed in Forma Pauperis Allowed, Motion to Appoint Counsel Moot, April 5, 2018.

414A17: N.C. Supreme Court: Motion to Dismiss Appeal Allowed, March 1, 2018 (this was a one-page motion against @ 1000 pages of record, taken from a timely filed appeal of the Appellate Court Opinion.)

404P17: Supreme Court of North Carolina: Motion for Temporary Stay Dissolved, Petition for Writ of Certiorari Denied, Motion to Proceed in Forma Pauperis Allowed, December 7, 2017.

P17-760: N.C. Court of Appeals: Petition for Writ of Supersedeas Denied, Petition for Writ of Mandamus Dismissed, November 21, 2017. (Graham County Clerk of Court three times issued a Writ of Possession Real Property without a Judge's Order, thus ACTING AS a Judge.)

COA17-418: N.C. Court of Appeals: Non-published Opinion, Filed November 7, 2017. (The Court declared that that a Writ of Recordari is an Appellate matter, ignoring the history of the Writ; then refused to review the case, clearly designated Alternate Appeal on its face. The court also Affirmed the Motion to Dismiss for Lack of Subject Matter Jurisdiction, setting the stated precedent that "custody matters are the SOLE JURISDICTION [emphasis mine] of the [General] District Court [of North Carolina].")

In these cases, the North Carolina Juvenile Code has been ignored in its entirety. Also, there are multiple glaring American with Disabilities Act violations, since our disabled son has repeatedly been used as THE SOLE EXCUSE of why parents and grandparents aren't allowed to be with their children and grandchildren.

The following is a brief outline of events ("facts") leading up to the above public records.

The case title should be: In re. D.J.M. et.al. vs. Graham and Swain Counties, N.C., et. al.

We are the parents and legal guardians of D.J.M., an incompetent disabled adult.

On 9/20/18 Graham County Juvenile District Court held a travesty of a court hearing where it was admitted (the confidential hearing records will have to be subpoenaed) that we, paternal grandparents of the infant involved in 18 JA 03, Graham County District Court, N.C. were deliberately excluded from a follow-up Home Study (that had shown us "Safe" in the first study) because our adult disabled son, though admittedly in a wheelchair in the testimony, was now "Unsafe" because he made wild, jerking motions and loud noises that "might scare the child"; without being able to identify the fact that D.J.M. has autism and Cerebral Palsy, that could have easily been ascertained through the ten year history of records with Appalachian Community Services local office in Robbinsville, (field offices in Murphy and Waynesville), Meridian Behavioral Services (Sylva), and (now) VAYA MCO, main offices in Asheville and Sylva, (all North Carolina) for @ a 25 county area (one of four MCOs, soon to be one of three).

Our paternal granddaughter will be flown to Oregon this Saturday (9/22/18) to her single maternal grandmother, who, as the testimony shows, wafted back and forth on whether she even wants her, due to a rush of judgment where Judge Monica Leslie refused to acknowledge my Motion to Intervene filed this same morning (9/20/18), just as she refused to acknowledge our Motion to Dismiss filed 2/27/18 in this same case, based on a N.C.G.S. 50-13.1(a) action that she refused to even look at, saying in court that we could ONLY file a Motion to Intervene against both parents; that no other action was legal.

Judge Leslie, along with other District 30 Judges, has exhibited extreme prejudice against our family in the past, because I was instrumental in making Chief Judge Holt retire in April, 2014, as a result of a Judicial Standards Commission Complaint, for, among other things, mixing North Carolina law with Native

American tribal law. Instead of trying to do better, some lawyers and judges in District 30 have doubled-down on doing worse.

This ugly and unlawful co-conspiracy in Graham County has now been going on for over a year; the local cases are included in the North Carolina Supreme Court denials of our petitions 71P18, dismissed 4/5/18 concerning this very matter in conjunction with the parallel Swain County case discussed below, and an "insufficient evidence" verdict to a Judicial Standards Commissions complaint against District 30 Judge Roy Wijewickrama, dated and sent by mail on 5/15/18, concerning an unlawful eviction against us completed at the beginning of this year (1/2/18), trying to "run us out of town" as had also occurred in Swain County at the beginning of 2014; though the JSC did admit that there was "possible legal error".

The "confidential" nature of American with Disabilities Act records, along with how the cases have proceeded and were denied/ dismissed, have made it impossible to further pursue in North Carolina Appeals Courts, by illegal due process design.

Citing the most recent State ADA violations first, I now turn to the history of the original Federal Complaint, resulting from 12-CVD-78 and 13-CVD-183, Swain County, N.C.; involving illegal Indian Child Welfare Act and further ADA violations as well as severe State and Federal Constitutional violations, as there has been ONE SINGLE Temporary Custody Hearing for both of our grandchildren by my daughter, in over six-and-a-half years, conducted by Judge Holt one month before his forced retirement, in February, 2014, the morning of the same afternoon where Swain County D.S.S was involved in filing for "emergency custody" of our disabled son D.J.M., where both his appointed guardian ad litem and the clerk of court nearly laughed them out of the courtroom.

As I was never allowed to be a "party" to anything, trying to blame me for non-action in all of these cases in District 30 is ridiculous. It also should be noted that slanderous allegations have been made against my family for over six years without anyone ever having to prove anything in a court of law; and that, now assured that

the North Carolina Supreme Court won't help a *pro se, in forma pauperis* litigant in anything (as the official caseload records prove), there is barely any "going through the motions" in any of these recent proceedings at all; any excuse by a lawyer will do, with preconceived outcomes. This also can be proven by the few CDs I have obtained from hearings that are actually legible (many aren't, or are "strictly confidential" without being sealed). To hear the media say "We are all concerned with reuniting children with their families" is one of the most ludicrous jokes of the year, which is full of them still a month away from elections. These are both extremely important Constitutional issues, and timely in important public impact.

After the Feb. 2014 star chamber under 20 minute hearing, where my daughter wasn't present, her lawyer bullied to not say anything by Judge Holt, the only "witness" the then-State actor mother-in-law making uncontested allegations in her own defense, her lawyer the Swain County Attorney, but both of them in strictly individual capacity, so that my daughter could not obtain one for anything approaching a proper 7B standard (I hired four, all who were afraid to buck the *status quo* system, one outrightly admitting it); AND Judge Holt declaring all records of both cases for two years completely "null and void" in a single sentence; this was the prelude to a threat to throw me in jail for contempt of court if I ever filed anything in those cases again in District Court (I did, years later).

NO STATE COURT HAS REVIEWED THESE RECORDS IN THIS 4 ½ YEAR PROCESS; I HAVE NOW EXHAUSTED THE ENTIRE STATE APPEAL PROCEDURE, ESSENTIALLY TWICE.

The Federal Complaint and Appeal process was fairly simple, in comparison to the State process; going all the way to a docketing number at the U.S. Supreme Court; but, after it was given, it was immediately removed by an assistant SCOTUS Clerk of Court, because he did not find my name on the face of the State Complaint, so declared all my submitted documents "Untimely." As the only "Question" that could have been answered after that Clerk declared the State Records disallowed (I filed

Motions to the chief SCOTUS Clerk of Court four times that were never answered directly by him) was whether or not “Rooker- Feldman Doctrine” was an appropriate judgment in the Federal Appeal, a sidelight in trying to get the State Records reviewed; I accepted the stalemate and went back to figuring out how to refile everything with my name as the Plaintiff (having never been made a Party to anything, but with definite third-party rights, if I could force someone to review the record). In futilely trying to find a law firm interested in the case anywhere in the U.S., I stumbled upon the archaic N.C. State Recordari Statute that is still in place. The timeline of the 12-CVD-78 & 13-CVD-183 cases Swain County District Court, N.C. in Complaint and Appeal are:

2:14-cv-00010-MR-DLH was Dismissed Without Prejudice pursuant to 28 U.S.C. 1915(e) on 3/1/14 by the Honorable Judge Martin Reidinger, U.S. District Judge (U.S. District Court, Western District, Asheville N.C.) citing Rooker- Feldman Doctrine as the basis of the dismissal. It must be reiterated here that NO JUDGMENT WAS OBTAINED IN THESE APPEALS because no Judge was willing to Review the Record for duly-presented Constitutional violations (both State and Federal) at ANY LEVEL, twice. Making excuses to not review records, simply because the *pro se* litigant does not have a lawyer repeatedly requested, is not Constitutional due process. I have not found a single law firm in North Carolina or beyond willing to even look at this case, not only because a six-figure retainer would now be demanded, but also that there is no one willing to challenge the state of North Carolina from the N.C. Bar concerning child custody and ADA violations, PERIOD; so the statutes in effect, again both State and Federal, have no real meaning when no one will challenge the laws against a State deliberately ignoring them. This is like the famous scene on FOX’s Legends and Lies where Thomas Jefferson’s slave curiously reads the line in the Declaration of Independence about freedom and justice, and Jefferson says, “Go away now; this doesn’t concern you.” If the rich are barely afforded justice concerning child custody cases, be assured that the poor are not receiving any lawful due process at all.

Case No. 14-1443 in the U.S. Court of Appeals, Fourth Circuit simply Affirmed the said U.S. District Court Judgment on Sept. 26, 2014 without further comment; the Petition for Rehearing was Denied by the same three Judges on 11/12/14.

The N.C. State process was much more complex. North Carolina Court of Appeals No. 14-751 "Motion to Dismiss" filed by Kimberly Lay (now Carpenter), Plaintiff Susan Call's Swain County Attorney (again, both State actors in "private capacity"; I had to retain the order established in the Heading in the District Court, by unofficial order of an N.C. Appellate assistant clerk of court, who wouldn't allow me to do otherwise) was "dismissed for failure to attach an appropriate proof of service upon the appellant." (me, Ron Metcalf) on 9/26/14. The exact same Motion to Dismiss was refiled and accepted on 10/2/14, my counter Motion to Quash filed 10/22/14 was Denied the next day; I protested the *res judicata* Motion that alleged that I did not Serve copy of the original Notice of Appeal on Plaintiff Attorney Kim Lay, or my daughter's former Defendant Lawyer Greg Boyer, by sworn affidavit and perjury lie, and also for my (also disabled) former son-in-law's Attorney Eric Stiles, by Plaintiff Attorney signing for Defendant Attorney without his own affidavit. I gave certificate of service through the normal means, regular U.S. Mail; because I could not PROVE that the postmarks I included in my exhibits of my Motion to Quash went directly to these lawyers (I would have had to send everything by certified mail every time I filed anything); Plaintiff's Motion to Dismiss was Allowed, and the Appeal dismissed, on 10/23/14, by the N.C. Court of Appeals.

Because the Appellate Court did not bother to send me a mailed hardcover copy of the decision, but it randomly appeared in an e-mail a few weeks later, and not filed in District Court until 11/12/14, I was now past the deadline to file a normal Appeal to the N.C. Supreme Court; so had to file a Writ of Certiorari (no # given) on 11/17/14 and Denied on 12/18/14; the Mandate issued 12/29/14 and filed in District Court 12/31/14.



Because the Appellate Assistant Clerk did not allow me to file the Appeal as Appellant/ Appellee, and because of the delay in the N.C. Supreme Court denial, this made it impossible to file a Petition for a Writ of Certiorari to the U.S. Supreme Court based upon the 4<sup>th</sup> Circuit COA opinion timeline alone, without several rewrites of trying to explain to SCOTUS Assistant Clerk of Court Redmond Barnes (12 neatly-packaged copies at a time, which is still better than 40 bound copies at a time) of why I had been able to file an appeal without having my name on the face of it. We went back and forth all spring; he finally relented and gave me U.S. Supreme Court Docketing # 14-9573 so that I could file it with the N.C. District Court; but then, wrote me a private note a few days later, saying that everything I had done was untimely, and gave the number to someone else. My Petition for a Writ of Mandamus went nowhere; the clerks informed me that I would have to start from scratch, as if nothing I had done up to that point mattered. Ironically, this was the same thing that the North Carolina Courts had been telling me all along: that there was no record; that it never existed.

I spent the next six months searching for ANY law firm in the U.S. to look at the case, to no avail; and, after the one year period without any further activity in the (now combined) cases that never existed (my daughter's attorney "officially" withdrew, after "actually" withdrawing a year before that), gave a copy of 12-CVD-78 and 13-CVD-183, and the State and Federal opinions, to Resident Superior Judge Coward, District 30, N.C. for a Petition for Writ of Recordari review (which can be done before a Hearing by state statute) in December, 2015, along with my daughter's Motion to Dismiss the two cases, due to a recent assault by members of her ex-mother-in-law's family, as she had been given complete control over all aspects of the two-hours a week visitation rights of my daughter (and also disabled ex-husband, that were conveniently ignored nearly immediately) by Judge Holt, as if she was actually a part of Swain County D.S.S.; of course, the department refused to investigate any allegations my daughter made.

Judge Coward accepted the case, but told me I would have to Notice it for a Hearing



in a hand-written note from his assistant; the calendar for superior court civil cases being only twice a year in each county. It was delayed until September 2016 for the following reasons: 1) I found out from local newspapers that the disabled father co-defendant's lawyer had been arrested for methamphetamine possession and distribution, and his license suspended; he was convicted that summer of both that and an additional charge of unregistered automatic firearm possession. This was significant in that he had forged the plaintiff lawyer's signature, filing against his own client, against me directly for legally taking my daughter's new infant son to her in Florida, out of Judge Holt's jurisdiction, on the advice of her lawyer; he threatened an amber alert against both of us "within an hour" for not following his exact commands to bring the baby back to his illegal jurisdiction, without any probable cause hearing, and, at least at that time, knowing that only Superior Judges could issue the UCCJEA interstate orders. This, along with testimony that my disabled son was THE REASON my daughter could not have her children back, even though she did not live with us, is all part of the phantom record. 2) Judge Coward denied my change of venue to what appeared to be neutral Graham County at the time; and also denied my indigent status that had been approved by both State and Federal Courts for two years; our income actually being somewhat less at the time.

Two weeks before the scheduled hearing, another judge on the docket, Judge Coward took over the case himself, coinciding with Kim (now) Carpenter's last-minute Motion to Dismiss (as discussed above). I Appealed; they both were horrified that I actually included the Record in the Appeal; a Hearing was held to Settle the Record, that Judge Coward refused to allow me a transcript of, indigent or not (I was willing to pay for it). In the meantime, the Plaintiff mother-in-law managed to burn her two-story house to the ground in the middle of a weekday, one mile from the fire station. Because she was a local bigshot, the newspaper showed a color photo of the house burning on the front page, but refused to mention her name; our grandson in the house with her during the ordeal. Of course this was not

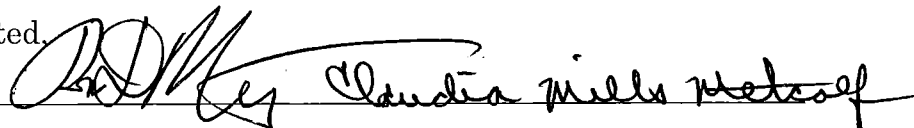
worthy of mention to any Judge in North Carolina; the Appellate Judges, relying on Appellee Attorney's pink eight-page Reply to Brief as their sole criteria, even called my Supplement to the Record in defense to the Swain County Lawyer and Chief Superior Court Judge's joint Alternate Appeal, an "*ad hoc* objection", though of course it had been submitted with the illegal Alternate Appeal.

To sum up, I suppose it is impossible to prove anything that never has to be read or reviewed. Allegations that are allowed to stand forever without anyone caring, destroying entire families, are the new standard of those wishing to abolish the Constitution of the United States entirely. How do you calculate damages for this?

I started with \$500.00 day, then increased it to \$1000.00 day when the second case materialized. But compensatory damages are not enough; punitive damages in this case, in what amounts to a class action of one, in behalf of hundreds of thousands of people, ought to be significant. Therefore, because of the severe emotional suffering, slander, trying to run us out of town twice, refusing to acknowledge that anything ever happened at all, in deliberate conspiracy by counties of the state, against the people of the state; our demands are:

\$2,000,000.00 compensatory and punitive damages, against Graham County, North Carolina; \$5,000,000.00 against Swain County, North Carolina (this was calculated awhile ago, I should actually demand more), punitive and compensatory; \$750,000.00 against Kim Carpenter, Swain County Attorney, in official and individual capacities (as she took it on herself to represent three Defendant Attorneys with her in N.C. Appellate Court), compensatory and punitive damages; \$750,000.00 against Susan Call, in official (at the time of filing) and individual capacities, compensatory and punitive damages.

Respectfully submitted,

  
Ron and Claudia Metcalf, *pro se* 169 Atoah St. Robbinsville, N.C. 28771 9/25/18

# STATE OF NORTH CAROLINA

File No.

14-E-36

SWAIN County

In The General Court Of Justice  
Superior Court Division  
Before The Clerk

## IN THE MATTER OF THE ESTATE OF

Name Of Ward

DYLAN METCALF

## LETTERS OF APPOINTMENT GUARDIAN OF THE PERSON

☒ Incompetent Person

☐ Minor

G.S. 35A-1203, 35A-1206, 35A-1241

The Court in the exercise of its jurisdiction for the appointment of guardians of incompetent persons and minors, and upon proper application, has appointed the person(s) named below as Guardian(s) of the Person of the ward named above and has ordered that these Letters Of Appointment be issued.

The guardian of the person is fully authorized and entitled under the laws of North Carolina to have the custody, care and control of the ward, **but has no authority to receive, manage or administer the property, estate or business affairs of the ward.**

These Letters are issued to attest to that authority and to certify that it is now in full force and effect.

Witness my hand and the Seal of the Superior Court.

Name And Address Of Guardian 1 Of The Person

RON DAVID METCALF  
169 ATOAH ST  
ROBBINSVILLE, NC 28771

Date Of Qualification

03/31/2014

Clerk Of Superior Court

HESTER G. SITTON

**EX OFFICIO JUDGE OF PROBATE**

Name And Address Of Guardian 2 Of The Person

CLAUDIA METCALF  
169 ATOAH ST  
ROBBINSVILLE, NC 28771

Date Of Issuance

09/26/2018

Signature

*Hester G. Sitton*

☐ Deputy CSC

☐ Assistant CSC

☒ Clerk Of Superior Court

SEAL

NOTE: This letter is not valid without the official seal of the Clerk of Superior Court.